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**VIA FAX 410-358-1236**

June 9, 2005


Commissioner Robert E. Nicolay  
Chairman, Certificate of Need Task Force  
Maryland Health Care Commission  
4160 Patterson Avenue  
Baltimore, MD 21215

Dear Commissioner Nicolay:

Attached please find Civista Medical Center's comments to the Maryland Health Care Commission's Certificate of Need Task Force.

Sincerely,



  
Carolyn W. Core  
Vice President  
Corporate Services

CWC/kp

cc: Frank Monius, MHA  
Christine M. Stefanides, Civista President & CEO  
ATTACH.

CIVISTA MEDICAL CENTER'S  
COMMENTS TO MHCC CERTIFICATE OF NEED TASK FORCE

June 9, 2005

Civista Medical Center welcomes the opportunity to submit comments to the Maryland Health Care Commission (MHCC) Certificate of Need (CON) Task Force on ways to improve the CON process in Maryland.

Civista Medical Center supports the CON process for the State of Maryland, and strongly believes refinements would improve the process for hospitals. Expanding and maintaining a healthy Civista Medical Center is critical to meet the growth and expectations of Charles County's residents.

**MHA Process**

In January 2005, MHA convened a work group of hospital representatives and subject matter experts to review the CON process and identify areas for improvement. As part of their work, they surveyed all MHA members for their concerns, reviewed the State Health Plan (SHP), and analyzed their historical experiences with the CON process. Civista Medical Center participated in this group, and Civista Medical Center supports the MHA comments document.

**Civista Medical Center's Recommendations - SHP**

- Update the State Health Plan (SHP) and keep it current. An applicant for CON should not be required to modify the CON application because the SHP was amended after the CON was docketed. Many of the current system standards are obsolete and/or redundant and should be repealed. Others, such as the American Institute of Architects (AIA) guidelines for square footage, should be adopted.
- Eliminate the use of standards not "formally" adopted in the SHP - Only standards promulgated and detailed in the SHP should be used in the CON review process. Civista Medical Center was impacted by this in the final stage of CON approval, regarding emergency department size. The MHCC used ACEP guidelines as a standard.
- Align acute care bed need projections with the licensure law - The CON and bed need regulations should be changed to use a 71.5 percent occupancy rate, instead of the current 80 percent occupancy rate, to reflect the statutory standard for licensed beds of 140 percent of average daily census. Facilities whose occupancy increases licensing capacity should be allowed to physically expand and add space without the full CON process applied. The need is demonstrated by occupancy change.
- Better define total available physical capacity and bed space - The definition of physical capacity needs to take into account modern architectural and patient care standards and public policy concerns such as the need for adequate surge capacity. The counting of headwalls in old semi-private rooms that will be converted to private rooms as "physical capacity" is a poor measure. Using converted rooms as semi-privates (except in cases of

natural disaster or epidemic) is unlikely for a multitude of reasons. Many newly constructed private rooms have multiple oxygen, vacuum, and medical air outlets on both sides of the bed, but this is one single room. However, the “headwall” count is the same as old semi-private rooms.

### **CON Process**

- First, the process of completeness review should take no more than one week and should only be undertaken to assure that the applicant has completed all of the necessary items in the application form set. The practice of extending the completeness review period to conduct a substantive analysis of a submitted CON application and commence the interminable back and forth of completeness questions and responses is simply wrong. Furthermore, this practice is done because there is a loophole in the law which requires that the MHCC will act on a CON application within 90/150 days, and the MHCC has interpreted that to mean to act on a “complete” CON application that is docketed for review. Hence, the MHCC has given itself no time limits by simply refusing to docket what are otherwise “complete” CON applications. The law contemplates that the substantive review of the application will proceed within the 90/150 days, not in the 90 – 150 days prior to docketing.
- Second, the staff of the MHCC should be required to write its proposed decision within 60 days of docketing, and file that recommendation with the applicant and the public before the interested parties provide comments on the application. If there is additional information that the staff requires to complete its analysis, it can discuss these with the applicant within that two-month period, and request more time if necessary. If the staff of the MHCC believes that the project should be modified, this is the time to negotiate with the applicant. If the reviewer wants the staff to address the interested parties’ comments, or solicit the recommendation of the HSCRC, it can request the staff to do so. The applicant already has an opportunity to respond to the interested parties’ comments. At that point, the reviewer has the benefit of the application, the staff’s recommendation, the interested parties’ comments, and the applicant’s responses. That should be sufficient documentation for the reviewer to make a final recommendation to the MHCC for its vote within 30 to 60 days. If not, the reviewer can ask the applicant for more time. The point is that the clock is meant to keep the MHCC’s feet to the fire, to keep the process moving along. The MHCC staff needs to manage the CON process and be required to produce a written recommendation for approval, modification or denial within two months of docketing.
- Civista Medical Center supports the creation of a “Fast Track” review process - An abbreviated review process should be created for certain types of projects, such as those that do not include new beds and/or services. For these “fast track” projects, staff reports should be issued within 60 days and a commission decision should be rendered in 90 days or the project should be deemed “approved.”
- Encourage efficient use of resources by allowing shell space - MHCC should allow hospitals to construct shell space under certain circumstances and within certain parameters to support the efficient use of health care dollars, where a rate increase is not being requested for the shell space.

**Other**

- Raise the capital threshold to at least \$5 Million - This threshold should be raised to at least \$5 Million, adjusted annually for inflation, to better reflect the increasing costs of capital improvement projects, as well as the increasing need for physical plant upgrades.
- Civista Medical Center supports the expansion of the CON business office equipment exemption to include health information technology/medical information systems, recommended by the MHA CON Task Force.

**Conclusion**

Civista Medical Center applauds the MHCC for appointing a task force to update the CON process. We hope that our recommendations will be of benefit. Maryland's CON process, along with the HSCRC, increases the comfort level of bond investors and insurers in Maryland's not-for-profit hospitals.